

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOHN R. GIBSON,)	1:05-CV-00042 AWI GSA HC
)	
Petitioner,)	
)	ORDER SETTING BRIEFING SCHEDULE
v.)	
)	
LEE ANN CHRONES,)	
)	
Respondent.)	

Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 on remand from the Ninth Circuit Court of Appeals.

On January 10, 2005, Petitioner filed a petition for writ of habeas corpus in this Court. On June 27, 2005, Respondent filed an answer in which she claimed, *inter alia*, that the petition for writ of habeas corpus was filed beyond the one year statute of limitations imposed by the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA). See 28 U.S.C. § 2244(d)(2). On August 22, 2006, a Findings and Recommendation issued which recommended the petition be dismissed with prejudice. On October 13, 2006, the District Court adopted the Findings and Recommendation and dismissed the petition.

Petitioner thereafter appealed the judgment. On May 2, 2008, the Ninth Circuit remanded

1 the case to the District Court to consider whether Petitioner should be entitled to statutory tolling
2 for the time a state petition was pending in the Los Angeles County Superior Court. In particular,
3 Petitioner references Case No. A613586, before Judge Curtis B. Rappe. If Petitioner is indeed
4 entitled to statutory tolling for this petition, the Court must then determine whether tolling
5 renders his petition timely.

6 Accordingly, Respondent is DIRECTED to brief this issue within forty-five (45) days of
7 the date of service of this order. Petitioner may file a brief in reply within thirty (30) days after
8 the date Respondent files her brief.

9
10 IT IS SO ORDERED.

11 Dated: August 3, 2008

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE